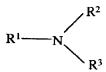
## Remarks

Reconsideration of the application in view of the above amendments and the following remarks is requested. Claims 1-3 and 5-7 are in this case. Claim 1 has been amended. In Claim 1, the surfactants in group a) had previously been limited to preferred alkoxylated alkylamines or alkyletheramines by deleting  $C_1 - C_4$  alkyl groups from the definition of  $R^2$  and  $R^3$  and by deleting "alkylamine and alkylether" amine as modifiers to amine surfactants. Claim 1 has now been amended by reinserting the "alkylether" amine modifier to amine surfactants.

Claim 1 has been rejected under 35 U.S.C. § 112, first paragraph because the previous deletion of alkylamine and alkyletheramine broadened the scope of Claim 1. The Applicants respectfully disagree. The amine surfactants of Claim 1, whether they be called alkoxylated alkylamines, alkyletheramines or just plain amines, are defined by the chemical formula



in which  $R^1$  is a  $C_8$  -  $C_{24}$  straight or branched chain, saturated or unsaturated hydrocarbyl group, optionally interrupted by one or more ether linkages, and  $R^2$  and  $R^3$  are independently polyoxyalkylene chains having in total 2 to about 22 alkylene oxide units. The deletion of  $C_1$  -  $C_4$  alkyl groups from the definition of  $R^2$  and  $R^3$  did not broaden the definition of amine surfactants but narrowed it and required deletion of the descriptor "alkylamine". Nevertheless, in order to facilitate the prosecution of this application, the term "alkylether" has been reinserted as a descriptor for amine surfactants.

Claims 1-3 and 6-7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,030,923 (Okano et al.) in view of US 4,159,901 (Beestman et al.).

The present invention concerns herbicidal concentrate compositions consisting essentially of (a) water, (b) glyphosate, predominantly in the form of the monomethylamine or the dimethylamine salt, in solution in the water in an amount of

greater than about 350 grams of acid equivalent per liter of the composition, and (c) at least one surfactant in a total amount of about 20 to about 200 grams per liter of the composition. The surfactant is chosen from the list a) through h).

Okano et al. disclose liquid agricultural chemical compositions comprising (1) a water soluble agricultural chemical, including the monomethylamine or the dimethylamine salts of glyphosate (Table 3), (2) a quaternary surfactant and, most importantly, (3) an acid salt, e.g., a hydrochloride salt, of an alkylamine NR<sup>3</sup>R<sup>4</sup>R<sup>5</sup> wherin R<sup>3</sup> is a C<sub>4</sub>-C<sub>18</sub> alkyl or alkenyl group and R<sup>4</sup> and R<sup>5</sup> are independently H, CH<sub>3</sub> or CH<sub>2</sub>CH<sub>3</sub>. The acid salt of the alkylamine (3) is essential to impart stability to the composition.

Beestman et al. disclose corrosion inhibited compositions of glyphosate salts in combination with various surfactants. In addition, Beestman et al. requires the presence of a thio compound as a corrosion inhibitor. While Beestman et al. mentions the di(methylamine) and the di(dimethylamine) salts of glyphosate among the dozens of glyphosate derivatives disclosed, it does not specifically disclose the mono(methylamine) or the mono(dimethylamine) salts of the present invention. All examples are limited to the monoisopropylamine salt.

The combination of Okano et al. and Beestman et al. provides a glyphosate composition containing (1) a water soluble agricultural chemical, including the monomethylamine or the dimethylamine salts of glyphosate, (2) a quaternary surfactant, a (3) an acid salt, e.g., a hydrochloride salt, of an alkylamine, and (4) a thio compound as a corrsion inhibitor.

The present invention lacks the required acid salt of an alkylamine (3) of Okano et al. and the required thio compound corrsion inhibitor (4) of Beestman et al. Thus the combination of Okano et al. and Beestman et al. does not provide a prima facie case of obviousness. The Examiner cannot use impermissible hindsight to pick and choose only selected portions of the cited references.

Even if a *prima facie* case of obviousness was presented, the selection of the monomethylamine and the dimethylamine salts of glyphosate in the present compositions has exhibited unexpected benefits compared to the prior art. Tables 9 and 10 illustrate the superior and unexpected efficacy respectively of the high strength MMA salt formulation on weeds in general and lambsquarter in particular.

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The Examiner suggest that one skilled in the art would be motivated to combine the teachings of Okano et al. with those of Beestman et al. in order to create a concentrated solution to maximize the treatment of plants. But the purpose of Beestman et al. is to inhibit the corrosion of metal surfaces contacted by aqueous solutions of glyphosate salts while the purpose of Okano et al. is to increase the stability of liquid formulations of water soluble agricultural chemicals. In order to achieve these purposes, Beestman et al. requires the presence of a thio compound as a corrosion inhibitor and Okano et al. requires an acid salt of the alkylamine to impart stability. Neither is directed to creating a concentrated solution to maximize the treatment of plants.

The Examiner acknowledges that the phrase "consisting essentially of" allows for the inclusion of elements that do not materially affect the basic and novel characteristics of the claimed invention. The Examiner implies that the required acid salt of an alkylamine (3) of Okano et al. and the required thio compound corrsion inhibitor (4) of Beestman et al. do not affect the basic and novel characteristics of the claimed composition. This is clearly not so. In fact, according to Okano et al., without the stabilizing acid salt of an alkylamine, the compositions were unstable and could not be evaluated.

In view of the above amendments and remarks, the application and claims comply with the requirements of 35 U.S.C. § 112, first paragraph and 35 U.S.C. § 103(a). Reconsideration of this application and its early allowance are respectfully requested.

Respectfully submitted,

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